

October 5, 2020

U.S. Department of Homeland Security
Privacy Office, Mail Stop 0655
Department of Homeland Security
2707 Martin Luther King Jr. AVE SE
Washington, DC 20528-065

Via Electronic Mail: FOIA@hq.dhs.gov

Re: Freedom of Information Act Request – CHIP and CHIS Databases and BITMAP Program (Expedited Processing Requested)

Dear Freedom of Information Officer:

On behalf of the Immigrant Advocates Response Collaborative (“I-ARC”) and the Deportation Defense Clinic within the Community Legal Assistance Corporation, also known as the Hofstra Law Clinic, at the Maurice A. Deane School of Law at Hofstra University (“Deportation Defense Clinic”), we request the following pursuant to the Freedom of Information Act, 5 U.S.C. § 552:

A. REQUEST FOR DOCUMENTATION

1. All documents, regulations, and guidelines relating to the management of the CHIP, CHIS, and BITMAP Programs.
2. All memorandums of understanding, agreements, treaties, or other materials outlining partnership between the governments of El Salvador, Honduras, Guatemala and the United States to maintain and access the Criminal History Information Program (CHIP), Criminal History Information Sharing (CHIS), and the Biometric Identification Transnational Migration Alert Program (BITMAP) programs.
3. All memorandums of understanding, agreements, treaties, or other materials outlining partnership between the governments of El Salvador, Honduras, Guatemala and the United States to maintain and access the Enforcement Integrated Database (EID) and the DHS Automated Biometric Identification System (IDENT) and for the United States to obtain similar information from the governments of El Salvador, Honduras, and Guatemala.
4. All training materials used to orient users to inputting and retrieving data from the CHIP and CHIS programs.
5. A list of agencies in the United States and El Salvador governments who have user access for their employees or contractors for the CHIP and CHIS programs.
6. A list of funding sources and total funds used to operate and maintain the CHIP and CHIS programs.
7. Criteria used by US law enforcement personnel in the New York area to determine gang membership among the Central American population.

EXHIBIT A

8. A list of crimes reported to foreign governments under CHIP.

B. REQUEST FOR EXPEDITED PROCESSING

We are requesting expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 22 C.F.R. § 171.11(f).

I-ARC is a network of more than 80 legal service providers and professional associations assisting immigrants across New York State. As MS-13 enforcement efforts have increasingly centralized on New York's downstate regions, particularly Long Island, New York City, and the Lower Hudson Valley, I-ARC and its members have paid particular attention to the intersection between gang enforcement and immigration enforcement operations in that part of the state. I-ARC members have increasingly noticed information sharing between the governments of the United States and El Salvador, which has led to new evidence being introduced in individual removal cases to the detriment of due process rights, and information being shared between governments which have placed deportees in harms way in their home countries.

The Deportation Defense Clinic is a law clinic at the Maurice A. Deane School of Law at Hofstra University. The Deportation Defense Clinic provides: (1) client representation; (2) impact litigation; and (3) community advocacy. Our client representation includes full deportation defense services, including screening for relief, rapid response to ICE raids, visiting detained clients in immigrant and criminal jails, litigation in immigration and family court (including hearings in immigration court such as master calendar, bond, and individual hearings, as well as family court trials), administrative advocacy with USCIS and at asylum interviews, and appellate work before the Board of Immigration Appeals, Second Department Appellate Division, and in Federal Courts in the Second Circuit. Our impact litigation includes challenging policies and practices that harm the immigrant community on Long Island and in New York. Our community advocacy includes advocating for human, civil, and constitutional rights for immigrant communities on Long Island and in New York through legislative and administrative advocacy, community organizing, legal trainings and networking among nonprofits and private attorneys, and providing professional development to law students.

Requestors seek this information because the manner in which the US Government, including the Department of Homeland Security (DHS), carries out gang enforcement, particularly operations targeted at immigrant communities, are a "matter of widespread and exceptional media interest." See 6 C.F.R. § 5.5(e)(3) ("The existence of numerous articles published on a given subject can be helpful to establishing the requirement of that there be an 'urgency to inform' the public on the topic"). The numerous news reports on gang enforcement and related operations have called into question the purpose of these publicly-funded efforts, which have also resulted in a breakdown of trust between local communities and federal and local law enforcement. See, [*When Help is Nowhere to be Found: What Government Documents Reveal about MS-13 Operations in Long Island, New York City, and the Lower Hudson Valley*](#) (New York Immigration Coalition, May 2020); See also Hannah Dreier, [*Trapped in Gangland*](#) (ProPublica 2019). In fact, the President himself has made remarks linking gang enforcement efforts to a need for tougher immigration enforcement. See Liz Robbins, [*Trump, Visiting Epicenter of MS-13 Killings, Demands Tougher Immigration Laws*](#), N.Y. Times (May 23, 2018).

In order to ensure that the stated goal of enforcement against MS-13 and other gangs does not infringe upon our communities' civil liberties, due process rights, and does not put our clients in additional danger when removed from the United States, it is imperative that this information be released as soon as practicable.

C. REQUEST FOR FEE WAIVER

I-ARC and the Deportation Defense Clinic request that DHS waive all fees in connection with this FOIA request in accordance with 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government,” and I-ARC and the Deportation Defense Clinic are non-profit organizations without any commercial interest in the records.

a) The records requested concern “operations or activities of the government.”

The requested records concern the operations or activities of the government. Any databases created and run or directed by DHS are fundamentally operations or activities of the government in its handling of immigration enforcement and carrying out its duties to protect the homeland from actual threats. Furthermore, the requested documents are not protected from disclosure because they only pertain to the operations and policies of the agency, not to specific investigations or investigatory tactics.

b) The records requested are likely to contribute significantly to public understanding.

As stated above, the public has a significant interest in the disclosure of these documents. Both gang operations and immigration enforcement have a tremendous impact on our communities and the frequency and scope has greatly expanded since 2017, it is imperative that communities have a greater understanding of the purpose and goals of the information-sharing and information-collecting mechanisms that support these operations, as well as what public resources are being used to carry them out.

c) I-ARC and the Deportation Defense Clinic have no commercial interest in the records requested.

I-ARC is a network of more than 80 legal service providers and professional associations assisting immigrants across New York State. The Deportation Defense Clinic is a law clinic at the Maurice A. Deane School of Law at Hofstra University. I-ARC researches, generates, and supports advocacy around issues related to immigration. I-ARC also works with national immigration advocacy groups to develop policy guidance and oversight in the ever-changing context of immigration law. The Deportation Defense Clinic provides representation to individuals facing removal proceedings in the United States. Relevant to these pursuits, the requested information would provide invaluable insight into the challenges faced by, and the needs, of vulnerable immigrant populations in New York State and how the government is addressing those challenges and meeting those needs. This insight would enable targeted research and advocacy to legal service providers, community members, and policymakers to address the needs and gaps in services to immigrants living in New York State.

This information is not already available. However, I-ARC and the Deportation Defense Clinic will make the disclosed information publicly available to serve the greater community. We will do this in the form of posting the responsive documents on I-ARC's website, including an index of all available documents, and will synthesize the findings in a report to be distributed publicly and for free to all interested parties.

If it is your position that records exist that are responsive to this request, but that these records (or portions of these records) are exempt from disclosure, please identify the records that are being withheld and state the basis for the denial for each record being withheld. In addition, please provide the nonexempt portions of the records. Requesters reserve the right to appeal a decision to withhold any information or a denial of fee waivers, or otherwise to challenge this decision under the law.

In order to avoid delays in receiving the records, Requesters further ask that the records be produced as soon as practicable and on a rolling basis as soon as they become available.

All applicable records can be released to Camille J. Mackler, Esq.; c/o Immigrant Advocates Response Collaborative, PO Box 40051; Albany, NY 12205; and to Alexander T. Holtzman, Esq.; c/o Deportation Defense Clinic, 108 Hofstra University, Hempstead, NY 11549.

D. CERTIFICATION

We certify that the above information supporting the request for expedited processing is true and correct to the best of our knowledge. If you have any questions regarding the processing of this request, you may contact us by phone at 518-888-4507 or by email at cmackler@immigrantarc.org. Thank you for your prompt attention to this matter.

Very truly yours,

/Camille J. Mackler, Esq.

Executive Director

Immigrant Advocates Response Collaborative

/Alexander T. Holtzman, Esq.

Director of the Deportation Defense Clinic

Hofstra Law Clinic, Maurice A. Deane School of
Law at Hofstra University